

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3
4 MARC SPITZER, Chairman
5 WILLIAM A. MUNDELL
6 JEFF HATCH-MILLER
7 MIKE GLEASON
8 KRISTIN K. MAYES

9 In the matter of:)	DOCKET NO. S-03184A-03-0000
)	
10 ROBERT SHAKMAN)	NOTICE OF OPPORTUNITY FOR
11 10249 E. Celtic Drive)	HEARING REGARDING PROPOSED
12 Scottsdale, Arizona 85260)	ORDER TO CEASE AND DESIST
)	ORDER, FOR RESTITUTION AND FOR
13 HEALTHCARE PURCHASING ALLIANCE, INC.,)	ADMINISTRATIVE PENALTIES AND
14 7150 E. Camelback Road, Suite 300)	FOR OTHER AFFIRMATIVE ACTION
15 Scottsdale, Arizona 85251,)	
)	
16 Respondents.)	

17 **NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**

18 **EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

19 The Securities Division ("Division") of the Arizona Corporation Commission ("Commission")
20 alleges that RESPONDENTS have engaged in acts, practices and transactions, which constitute violations
21 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

22 **I.**

23 **JURISDICTION**

24 1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona
25 Constitution and the Securities Act.

26 **II.**

RESPONDENTS

2. Respondent ROBERT SHAKMAN ("SHAKMAN") was at all relevant times a
resident of Arizona, and the president, director and principal shareholder of Respondent

1 HEALTHCARE PURCHASING ALLIANCE, INC. Upon information and belief, SHAKMAN now
2 resides in Scottsdale, Arizona.

3 3. Respondent HEALTHCARE PURCHASING ALLIANCE, INC. (“HPA”) was at all
4 relevant times an Arizona corporation with its principal place of business at 7150 E. Camelback Road,
5 Suite 300, Scottsdale, Arizona 85251. HPA was administratively dissolved on or about January 10,
6 1997 for failure to file annual reports.

7 4. SHAKMAN and HPA may be collectively referred to as “RESPONDENTS.”

8 **III.**

9 **FACTS**

10 5. Paragraphs 1 through 4 are realleged.

11 6. SHAKMAN incorporated HPA in Arizona on or about November 4, 1993.

12 7. SHAKMAN described HPA as a “Group Purchasing Organization” created to provide
13 group buying power to its members. The members were to consist of individual and small group health
14 care practices, including physicians, osteopaths, dentists and veterinarians. HPA was to negotiate, on
15 behalf of its members, contracts with local and national companies for medical supplies and services.

16 8. According to an HPA offering document entitled, “Investment Opportunity for Health
17 Care Purchasing Alliance, Inc.,” HPA was offering six percent (6%) of its stock for the purpose of
18 raising one hundred two thousand dollars (\$102,000). HPA was to use the capital raised from the sale
19 of its stock to finance expansion and meet its then-current financial obligations.

20 9. The offering document provides that investors would earn returns two ways: (i)
21 increases in the stock’s value; and (ii) annual profit distributions.

22 10. HPA’s offering document also stated that “investors should receive a 7-12% return
23 during the first year and be earning in the 20% rate at the end of the first year.”

24 11. According to a “Share Purchase Agreement,” dated January 18, 1994, SHAKMAN
25 owned five hundred ten (510) shares of common series “A” stock in HPA. Two (2) other investors
26 purchased a combined four hundred ninety (490) shares of common series “B” stock in HPA.

12. Beginning in or about January 1994, SHAKMAN began soliciting, in and from Arizona, prospective investors to purchase from him his HPA stock.

13. From approximately January 1994 to January 1995, HPA and SHAKMAN sold at least four hundred thirty-one (431) shares of HPA stock to no less than thirteen (13) investors, raising at least seventy thousand dollars (\$70,000).

14. In addition, SHAKMAN, on behalf of HPA, executed promissory notes in favor of at least two (2) investors in exchange for a collective investment in HPA from the two (2) investors of fifty-two thousand five hundred dollars (\$52,500).

15. In or about April 1995, HPA vacated its offices and closed its business without notifying its shareholders.

16. Shareholders have repeatedly attempted to contact HPA and SHAKMAN, but to no avail.

17. None of the HPA investors have received a return on their investment.

IV.

VIOLATION OF SECTION 44-1841 OF THE

ARIZONA SECURITIES ACT

Offer and Sale of Unregistered Securities

18. Paragraphs 1 through 17 are realleged.

19. From at least November 1993 to January 1995, RESPONDENTS offered and sold securities, in the form of stock and notes, within or from the State of Arizona.

20. The securities referred to above were not registered under A.R.S. §§ 44-1871 through 44-1875, 44-1891 through 44-1990 or 44-1902; were not exempt securities under A.R.S. § 44-1843 or § 44-1843.01; were not offered or sold in exempt transactions under A.R.S. § 44-1844; and were not securities exempt under any rule or order promulgated by the Commission.

21. This alleged conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF SECTION 44-1842 OF THE

ARIZONA SECURITIES ACT

Transactions by Unregistered Dealers and Salesmen

22. Paragraphs 1 through 21 are realleged.

23. In connection with the offers to sell and sales of securities, RESPONDENTS acted as dealers and/or securities salesmen within Arizona, although not registered pursuant to the provisions of Article 9 of the Arizona Securities Act.

24. This alleged conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF SECTION 44-1991

ARIZONA SECURITIES ACT

Fraud in Connection with the Offer and Sale of Securities

25. Paragraphs 1 through 24 are realleged.

26. In connection with the offers and sales of securities, RESPONDENTS, directly or indirectly, made untrue statements of material fact and omitted to state material facts which were necessary in order to make the statements made not misleading in light of the circumstances under which they were made. RESPONDENTS also engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon offerees and investors within the meaning of A.R.S. § 44-1991, including, but not limited to the following:

- a. RESPONDENTS represented to investors that the investments could be refunded at any time with “no questions asked,” when in fact, RESPONDENTS denied certain investors’ requests for refunds, while other investors have been unable to contact RESPONDENTS to request a refund.

- 1 b. RESPONDENTS represented to investors that HPA stockholders would begin
2 receiving quarterly dividend checks in January 1995, when in fact, HPA never paid
3 dividends to the investors.
- 4 c. SHAKMAN guaranteed investors a twenty percent (20%) annual return on their
5 investment twenty-four (24) months after making the investment, when in fact, the
6 investors have never received a return on their investments.
- 7 d. RESPONDENTS overstated and otherwise misrepresented to investors the number of
8 members who enrolled in HPA's program.
- 9 e. RESPONDENTS overstated and otherwise misrepresented to investors the number
10 and/or nature of HPA's contractual agreements with health care suppliers and service
11 providers.
- 12 f. SHAKMAN represented to investors that he was a doctor and licensed dentist, when in
13 fact, SHAKMAN was neither a doctor nor a licensed dentist.
- 14 g. RESPONDENTS failed to provide to investors a balance sheet and/or profit and loss
15 statement reflecting HPA's financial condition and results of operations.
- 16 h. RESPONDENTS represented to investors that HPA was offering its shares in
17 compliance with state and federal securities laws, when in fact, the offerings were not in
18 compliance with applicable securities laws.

19 27. This alleged conduct violates A.R.S. § 44-1991.

20 **XII.**

21 **REQUESTED RELIEF**

22 The Division requests that the Commission grant the following relief against
23 RESPONDENTS:

- 24 1. Order RESPONDENTS to permanently cease and desist from violating the Securities
25 Act, pursuant to A.R.S. § 44-2032;

2. Order RESPONDENTS to take affirmative action to correct the conditions resulting from their acts, practices or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;

3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order RESPONDENTS to pay the state of Arizona administrative penalties, pursuant to A.R.S. § 44-1961; and

5. Order any other relief that the Commission deems appropriate.

XIII.

HEARING OPPORTUNITY

RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If any RESPONDENT requests a hearing, the RESPONDENT must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. Each RESPONDENT must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must accompany the request. A cover sheet form and instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at www.cc.state.az.us/utility/forms/index.htm.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made, the Commission may, without a hearing, enter an order against each RESPONDENT granting the relief requested by the Division in this Notice of Opportunity for Hearing.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shelly M. Hood, Executive Assistant to the Executive Secretary, voice phone number 602/542-3931, e-mail

1 shood@cc.state.az.us. Requests should be made as early as possible to allow time to arrange the
2 accommodation.

3 **XIV.**

4 **ANSWER REQUIREMENT**

5 Pursuant to A.A.C. R14-4-305, if any RESPONDENT requests a hearing, RESPONDENT
6 must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control, Arizona
7 Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after
8 the date of service of this Notice of Opportunity for Hearing. A Docket Control cover sheet must
9 accompany the Answer. A cover sheet form and instructions may be obtained from Docket Control by
10 calling (602) 542-3477 or on the Commission's Internet web site at
11 www.cc.state.az.us/utility/forms/index.htm.

12 Additionally, RESPONDENT must serve the Answer upon the Division. Pursuant to A.A.C.
13 R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the
14 Answer to the Division at 1300 West Washington, 3^d Floor, Phoenix, Arizona, 85007, addressed to
15 Wendy Coy.

16 The Answer shall contain an admission or denial of each allegation in this Notice and the original
17 signature of each RESPONDENT or RESPONDENT's attorney. A statement of a lack of sufficient
18 knowledge or information shall be considered a denial of an allegation. An allegation not denied shall be
19 considered admitted.

20 When RESPONDENT intends in good faith to deny only a part or a qualification of an allegation,
21 RESPONDENT shall specify that part or qualification of the allegation and shall admit the remainder.
22 RESPONDENT waives any affirmative defense not raised in the answer.

23 The officer presiding over the hearing may grant relief from the requirement to file an Answer for
24 good cause shown.

25 Dated this 20 day of October, 2003.

/s/ Matthew J. Neubert
Matthew J. Neubert
Acting-Director of Securities

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